

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SIGNIFY NORTH AMERICA CORPORATION
and
SIGNIFY HOLDING B.V.

Plaintiffs,

vs.

REGGIANI LIGHTING USA, INC.
and
REGGIANI S.P.A. ILLUMINAZIONE

Defendants.

Civil Action No. 1:18-cv-11098-ER

ORAL ARGUMENT REQUESTED

**NOTICE OF PLAINTIFFS' MOTION TO DISMISS
DEFENDANTS' COUNTERCLAIMS AND STRIKE AFFIRMATIVE
DEFENSES OF PATENT MISUSE AND INEQUITABLE CONDUCT**

PLEASE TAKE NOTICE that Plaintiffs Signify North America Corporation and Signify Holding B.V. (collectively, "Signify") respectfully move this Court, before the Honorable Edgardo Ramos, United States District Court Judge for the Southern District of New York, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, for an Order:

(1) dismissing, with prejudice, Defendants Reggiani Lighting USA, Inc. and Reggiani S.P.A. Illuminazione's (collectively, "Defendants") third counterclaim for patent misuse (Dkt. 38 at pages 37-40) under Federal Rule of Civil Procedure 12(b)(6);

(2) dismissing, with prejudice, Defendants' fourth counterclaim for inequitable conduct (Dkt. 38 at pages 40-47) under Federal Rule of Civil Procedure 12(b)(6);

(3) striking Defendants' fifth affirmative defense for patent misuse and unclean hands (Dkt. 38 at page 21) under Federal Rule of Civil Procedure 12(f);

(4) striking Defendants' tenth affirmative defense for inequitable conduct (Dkt. 38 at page 23-29) under Federal Rule of Civil Procedure 12(f); and

(5) granting any other relief as the Court deems just and proper.

Signify's Motion to Dismiss and Strike is based on the accompanying Memorandum of Law dated June 24, 2019, and Exhibits A, B, and C attached thereto.

Signify respectfully submits that the filing of the present Motion under Rule 12 postpones the time to answer Defendants' Second Amended Answer, Defenses, and Counterclaims (Dkt. 38) until fourteen days after the Motion is decided. *See Lombardo v. Seuss Enters., L.P.*, 2017 U.S. Dist. LEXIS 64854, at *10 (S.D.N.Y. Apr. 7, 2017).

Signify respectfully requests oral argument on this Motion.

Signify intends to file and serve reply papers.

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth in Signify's Memorandum of Law and the accompanying papers, it is respectfully requested that the Court issue an Order (1) dismissing, with prejudice, Defendants' third counterclaim for patent misuse; (2) dismissing, with prejudice, Defendants' fourth counterclaim for inequitable conduct; (3) striking Defendants' fifth affirmative defense for patent misuse and unclean hands; (4) striking Defendants' tenth affirmative defense for inequitable conduct; and (5) granting any other relief as the Court deems just and proper.

Dated: June 24, 2019

Respectfully submitted,

BOND, SCHOENECK & KING, PLLC

s/ Jeremy P. Occek

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COUNSEL FOR PLAINTIFFS
Signify North America Corporation and
Signify Holding B.V.

CERTIFICATE OF SERVICE

I certify that all counsel of record, who are deemed to have consented to electronic service are being served June 24, 2019, with a copy of this document via the CM/ECF system.

/s/ Jeremy P. Occek

Jeremy P. Occek